

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2633

By Delegates Householder, Espinosa, Horst, Phillips,
Gearhart, Dillon, Smith, Brooks, Foster, Forsht, and
Kirby

[Introduced January 17, 2023; Referred to the
Committee on Education then the Judiciary]

1 A BILL to amend and reenact §18B-1-3 and §18B-1-6 of the Code of West Virginia, 1931, as
2 amended; to amend and reenact §18B-1B-4 of said code; to amend and reenact §18B-2A-
3 4 of said code; to amend and reenact §18B-2B-6 of said code; and to amend said code by
4 adding thereto a new section, designated §18B-4-5b, all relating to regulation or restriction
5 of the carrying of a concealed pistol or revolver by a person who holds a current license to
6 carry a concealed deadly weapon; authorizing regulation or restriction on the carrying of
7 concealed pistols or revolvers in certain circumstances or areas of an institution of higher
8 education; eliminating authority of the Higher Education Policy Commission, the Council
9 for Community and Technical College Education and the institutional boards of governors
10 to restrict or regulate the carrying of concealed pistols or revolvers in certain
11 circumstances or areas of an institution of higher education; and designating these
12 amendments as "The Campus Self Defense Act".

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GOVERNANCE.

§18B-1-3. Transfer of powers, duties, property, obligations, etc.

1 (a) All powers, duties and authorities transferred to the board of Regents pursuant to
2 former provisions of chapter eighteen of this code and transferred to the board of Trustees and
3 Board of Directors which were created as the governing boards pursuant to the former provisions
4 of this chapter and all powers, duties and authorities of the board of Trustees and Board of
5 Directors, to the extent they are in effect on June 17, 2000, are hereby transferred to the Interim
6 Governing Board created in article one-c of this chapter and shall be exercised and performed by
7 the Interim Governing Board until July 1, 2001, as such powers, duties and authorities may apply
8 to the institutions under its jurisdiction.

9 (b) Title to all property previously transferred to or vested in the board of Trustees and the
10 board of Directors and property vested in either of the boards separately, formerly existing under
11 the provisions of this chapter, are hereby transferred to the Interim Governing Board created in

12 article one-c of this chapter until July 1, 2001. Property transferred to or vested in the board of
13 Trustees and Board of Directors shall include:

14 (1) All property vested in the board of Governors of West Virginia University and
15 transferred to and vested in the West Virginia Board of Regents;

16 (2) All property acquired in the name of the state Board of Control or the West Virginia
17 Board of Education and used by or for the state colleges and universities and transferred to and
18 vested in the West Virginia Board of Regents;

19 (3) All property acquired in the name of the state Commission on Higher Education and
20 transferred to and vested in the West Virginia Board of Regents; and

21 (4) All property acquired in the name of the board of Regents and transferred to and vested
22 in the respective Board of Trustees and Board of Directors.

23 (c) Each valid agreement and obligation previously transferred to or vested in the board of
24 Trustees and Board of Directors formerly existing under the provisions of this chapter is hereby
25 transferred to the Interim Governing Board until July 1, 2001, as those agreements and obligations
26 may apply to the institutions under its jurisdiction. Valid agreements and obligations transferred to
27 the board of Trustees and Board of Directors shall include:

28 (1) Each valid agreement and obligation of the Board of Governors of West Virginia
29 University transferred to and deemed the agreement and obligation of the West Virginia Board of
30 Regents;

31 (2) Each valid agreement and obligation of the state Board of Education with respect to the
32 state colleges and universities transferred to and deemed the agreement and obligation of the
33 West Virginia Board of Regents;

34 (3) Each valid agreement and obligation of the state Commission on Higher Education
35 transferred to and deemed the agreement and obligation of the West Virginia Board of Regents;
36 and

37 (4) Each valid agreement and obligation of the Board of Regents transferred to and

38 deemed the agreement and obligation of the respective Board of Trustees and Board of Directors.

39 (d) All orders, resolutions and rules adopted or promulgated by the respective Board of
40 Trustees and Board of Directors and in effect immediately prior to July 1, 2000, are hereby
41 transferred to the Interim Governing Board until July 1, 2001, and shall continue in effect and shall
42 ~~be deemed~~ are the orders, resolutions and rules of the Interim Governing Board until rescinded,
43 revised, altered or amended by the commission or the governing boards in the manner and to the
44 extent authorized and permitted by law. ~~Such~~ The orders, resolutions and rules shall include:

45 (1) Those adopted or promulgated by the Board of Governors of West Virginia University
46 and in effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or
47 amended by the Board of Regents in the manner and to the extent authorized and permitted by
48 law;

49 (2) Those respecting state colleges and universities adopted or promulgated by the West
50 Virginia Board of Education and in effect immediately prior to July 1, 1969, unless and until
51 rescinded, revised, altered or amended by the Board of Regents in the manner and to the extent
52 authorized and permitted by law;

53 (3) Those adopted or promulgated by the state Commission on Higher Education and in
54 effect immediately prior to July 1, 1969, unless and until rescinded, revised, altered or amended by
55 the Board of Regents in the manner and to the extent authorized and permitted by law; and

56 (4) Those adopted or promulgated by the Board of Regents prior to July 1, 1989, unless
57 and until rescinded, revised, altered or amended by the respective Board of Trustees or Board of
58 Directors in the manner and to the extent authorized and permitted by law.

59 (e) Title to all real property transferred to or vested in the Interim Governing Board pursuant
60 to this section of the code is hereby transferred to the Commission effective July 1, 2001. The
61 board of Governors for each institution may request that the Commission transfer title to the board
62 of Governors of any real property specifically identifiable with that institution or the Commission
63 may initiate the transfer. Any such request must be made within two years of the effective date of

64 this section and be accompanied by an adequate legal description of the property. In the case of
65 real property that is specifically identifiable with Marshall University or West Virginia University, the
66 Commission shall transfer title to all real property, except real property that is used jointly by
67 institutions or for statewide programs under the jurisdiction of the Commission or the Council, to
68 the Board of Governors of Marshall University or West Virginia University, as appropriate, upon
69 receipt of a request from the appropriate governing board accompanied by an adequate legal
70 description of the property.

71 The title to any real property that is jointly utilized by institutions or for statewide programs
72 under the jurisdiction of the Commission or the Council shall be retained by the Commission.

73 (f) Ownership of or title to any other property, materials, equipment or supplies obtained or
74 purchased by the Interim Governing Board or the previous governing boards on behalf of an
75 institution is hereby transferred to the Board of Governors of that institution effective July 1, 2001.

76 (g) Each valid agreement and obligation previously transferred or vested in the Interim
77 Governing Board and which was undertaken or agreed to on behalf of an institution or institutions
78 is hereby transferred to the Board of Governors of the institution or institutions for whose benefit
79 the agreement was entered into or the obligation undertaken effective July 1, 2001.

80 (1) The obligations contained in revenue bonds issued by the previous governing boards
81 under the provisions of §18B-10-8 and §18-12B-1 et seq. of this code are hereby transferred to the
82 Commission and each institution shall transfer to the Commission those funds the Commission
83 determines are necessary to pay that institution's share of bonded indebtedness.

84 (2) The obligations contained in revenue bonds issued on behalf of a state institution of
85 higher education pursuant to any other section of this code is hereby transferred to the board of
86 Governors of the institution on whose behalf the bonds were issued.

87 (h) All orders, resolutions, policies and rules:

88 (1) Adopted or promulgated by the respective Board of Trustees, Board of Directors or
89 Interim Governing Board and in effect immediately prior to July 1, 2001, are hereby transferred to

90 the Commission effective July 1, 2001, and continue in effect until rescinded, revised, altered,
91 amended or transferred to the governing boards by the Commission as provided in this section
92 and in section six of this article.

93 (2) Adopted or promulgated by the Commission relating solely to community and technical
94 colleges or community and technical college education, or rules which the Council finds necessary
95 for the exercise of its lawful powers and duties pursuant to the provisions of this chapter, may be
96 adopted by the Council and continue in effect until rescinded, revised, altered, amended or
97 transferred to the governing boards under the jurisdiction of the Council pursuant to section six of
98 this article. Nothing in this section requires the initial rules of the Commission that are adopted by
99 the Council to be promulgated again under the procedure set forth in article three-a, chapter
100 twenty-nine-a of this code unless such rules are rescinded, revised, altered or amended.

101 (3) Adopted or promulgated by the Commission relating to multiple types of public
102 institutions of higher education or community and technical college education as well as
103 baccalaureate and post-baccalaureate education are transferred to the Council in part as follows:

104 (A) That portion of the rule relating solely to community and technical colleges or
105 community and technical college education is transferred to the Council and continues in effect
106 until rescinded, revised, altered, amended or transferred to the governing boards by the Council as
107 provided in this section and in section six of this article;

108 (B) That portion of the rule relating to institutions or education other than community and
109 technical colleges is retained by the Commission and continues in effect until rescinded, revised,
110 altered, amended or transferred to the governing boards by the Commission as provided in this
111 section and in section six of this article.

112 (i) The Commission may, in its sole discretion, transfer any rule, other than a legislative
113 rule, to the jurisdiction of the governing boards of the institutions under its jurisdiction who may
114 rescind, revise, alter or amend any rule so transferred pursuant to rules adopted by the
115 Commission pursuant to section six of this article.

116 The Council may, in its sole discretion, transfer any rule, other than a legislative rule, to the
117 jurisdiction of the governing boards of the institutions under its jurisdiction who may rescind,
118 revise, alter or amend any rule so transferred pursuant to rules adopted by the Council pursuant to
119 section six of this article.

120 (j) As to any title, agreement, obligation, order, resolution, rule or any other matter about
121 which there is some uncertainty, misunderstanding or question, the matter shall be summarized in
122 writing and sent to the Commission which shall make a determination regarding such matter within
123 30 days of receipt thereof.

124 (k) Rules or provisions of law which refer to other provisions of law which were repealed,
125 rendered inoperative or superseded by the provisions of this section shall remain in full force and
126 effect to such extent as may still be applicable to higher education and may be so interpreted.
127 Such references include, but are not limited to, references to sections and prior enactments of
128 article twenty-six, chapter eighteen of this code and code provisions relating to retirement, health
129 insurance, grievance procedures, purchasing, student loans and savings plans. Any
130 determination which needs to be made regarding applicability of any provision of law shall first be
131 made by the Commission.

132 (l) On or after July 1, 2024, nothing in this section provides the authority to restrict or
133 regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid
134 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this
135 code.

§18B-1-6. Rulemaking.

1 (a) The commission ~~is hereby empowered to~~ may promulgate, adopt, amend or repeal
2 rules, in accordance with article three-a, chapter twenty-nine-a of this code, subject to section
3 three of this article. This grant of rule-making authority does not limit, overrule, restrict, supplant or
4 supersede the rule-making authority provided to the exempted schools.

5 (b) The council ~~is hereby empowered to~~ may promulgate, adopt, amend or repeal rules in

6 accordance with article three-a, chapter twenty-nine-a of this code, subject to section three of this
7 article. This grant of rule-making power extends only to those areas over which the council has
8 been granted specific authority and jurisdiction by law.

9 (c) As it relates to the authority granted to governing boards of state institutions of higher
10 education to promulgate, adopt, amend or repeal any rule under this code:

11 (1) "Rule" means any regulation, guideline, directive, standard, statement of policy or
12 interpretation of general application which has institution-wide effect or which affects the rights,
13 privileges or interests of employees, students or citizens. Any regulation, guideline, directive,
14 standard, statement of policy or interpretation of general application that meets this definition is a
15 rule for the purposes of this section.

16 (2) Regulations, guidelines or policies established for individual units, divisions,
17 departments or schools of the institution, which deal solely with the internal management or
18 responsibilities of a single unit, division, department or school or with academic curricular policies
19 that do not constitute a mission change for the institution, are excluded from this subsection,
20 except for the requirements relating to posting.

21 (3) The commission shall promulgate a rule to guide the development of rules made by the
22 governing boards, including a process for comment by the commission as appropriate, except the
23 exempted schools, who shall each promulgate their own such rules. The council shall promulgate
24 a rule to guide the development and approval of rules made by the governing boards. The
25 commission and council shall provide technical assistance in rulemaking as requested. The rules
26 promulgated by the exempted schools, the commission and council shall include, but are not
27 limited to, the following provisions which shall be included in the rule on rules adopted by each
28 governing board of a state institution of higher education:

29 (A) A procedure to ensure that public notice is given and that the right of interested parties
30 to have a fair and adequate opportunity to respond is protected, including providing for a thirty-day
31 public comment period prior to final adoption of a rule;

32 (B) Designation of a single location where all proposed and approved rules, guidelines and
33 other policy statements are posted and can be accessed by the public;

34 (C) A procedure to maximize Internet access to all proposed and approved rules,
35 guidelines and other policy statements to the extent technically and financially feasible; and

36 (D) Except for the exempted schools, a procedure for the governing board to follow in
37 submitting its rules for review and comment by the commission and approval by the council, as
38 appropriate:

39 (i) The governing boards shall submit rules for review and comment to the commission.

40 (ii) The commission shall return to the governing board its comments and suggestions
41 within fifteen business days of receiving the rule.

42 (iii) If a governing board receives comments or suggestions on a rule from the commission,
43 it shall record these as part of the minute record. The rule is not effective and may not be
44 implemented until the governing board holds a meeting and places on the meeting agenda the
45 comments it has received from the commission.

46 (d) Nothing in this section requires that any rule reclassified or transferred by the
47 commission or the council under this section be promulgated again under the procedures set out
48 in article three-a, chapter twenty-nine-a of this code unless the rule is amended or modified.

49 (e) The commission and council each shall file with the Legislative Oversight Commission
50 on Education Accountability any rule it proposes to promulgate, adopt, amend or repeal under the
51 authority of this article.

52 (f) The governing boards shall promulgate and adopt any rule which they are required to
53 adopt by this chapter or chapter eighteen-c of this code no later than July 1, 2011, unless a later
54 date is specified. On and after this date:

55 (1) Any rule of a governing board which meets the definition set out in subsection (c) of this
56 section and which has not been promulgated and adopted by formal vote of the appropriate
57 governing board is void and may not be enforced;

58 (2) Any authority granted by this code which inherently requires the governing board to
59 promulgate and adopt a rule is void until the governing board complies with this section.

60 (g) Within 15 business days of the adoption of a rule, including repeal or amendment of an
61 existing rule, and before the change is implemented, a governing board shall furnish a copy of
62 each rule which it has adopted to the commission or the council, respectively, for review.

63 (h) Annually, by October 1, each governing board shall file with the commission or the
64 council, as appropriate, a list of all rules that were in effect for that institution on July 1 of that year,
65 including the most recent date on which each rule was considered and adopted, amended or
66 repealed by the governing board. For all rules adopted, amended or repealed after the effective
67 date of this section, the list shall include a statement by the chair of the governing board certifying
68 that the governing board has complied with this section when each listed rule was promulgated
69 and adopted.

70 (i) Any rule of the commission or council in effect at the time of the re-enactment of this
71 section or approved by the Legislature during its 2017 Regular Session shall remain in effect and
72 applicable to an institution of higher education under the jurisdiction of the commission or council
73 until ~~such time as~~ an institution exercises its authority to adopt a rule pursuant to this chapter.

74 (j) On or after July 1, 2024, no rule adopted pursuant to the provisions of this section may
75 restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current
76 and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-
77 5b of this code.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-4. Powers and duties of Higher Education Policy Commission.

1 (a) The primary responsibility of the commission is to provide shared services in a cost-
2 effective manner upon request to the state colleges and universities, the West Virginia Council for
3 Community and Technical College Education, and the community and technical colleges;
4 undertake certain statewide and regional initiatives as specifically designated in this chapter,

5 including those related to the administration of grants and scholarships and including those in
6 conjunction with the council; to review, confirm, or approve certain actions undertaken by
7 governing boards, as delineated in this chapter; and assist in the development of policy that will
8 achieve the goals, objectives and priorities found in §18B-1-1a and §18B-1D-1 of this code. The
9 commission shall exercise its authority and carry out its responsibilities in a manner that is
10 consistent and not in conflict with the powers and duties assigned by law to the West Virginia
11 Council for Community and Technical College Education and the powers and duties assigned to
12 the governing boards. To that end, the commission has the following powers and duties relating to
13 the governing boards under its jurisdiction:

14 (1) Develop and advance the public policy agenda pursuant to §18B-1D-1 *et seq.* of this
15 code to address major challenges facing the state, including, but not limited to, the goals,
16 objectives, and priorities established in this chapter

17 (2) In conjunction with the council, propose emergency and legislative rules in accordance
18 with §29A-3A-1 and §18B-1-6 of this code to establish a performance-based funding formula
19 model the commission and council shall use, beginning in the fiscal year 2024 budget cycle, in
20 developing their annual budget requests to ensure the fair and equitable distribution and use of
21 public funds among the state's institutions of higher education, including the statutorily and
22 administratively exempted schools. This funding formula model shall advance the goals of the
23 state's postsecondary education system by emphasizing outcomes focused on student success
24 and institutional mission achievement. The formula shall include a range of variables that shall be
25 weighted in a manner that corresponds to each institution's mission and provides incentives for
26 productivity improvements consistent with the goal of strengthening the state's economy and
27 workforce by developing the most competitive and capable graduates in the nation. The rule shall,
28 at a minimum:

29 (A) Establish a set of objective performance metrics that reflect and support the state's
30 higher education goals and priorities and the methodology by which those metrics shall be used in

31 the allocation of state funds;

32 (B) Ensure that a portion of each institution's base appropriation is allocated based on
33 outcomes achieved over a defined period of time;

34 (C) Incentivize postsecondary program offerings that align with the state's higher
35 education and workforce development priorities; and

36 (D) Establish safeguards to ensure stability of the funding formula model including, but not
37 limited to, providing for periodic reviews of and revision to the performance metrics and funding
38 methodology in addition to accounting for inflation;

39 (3) In collaboration with the council and the governing boards:

40 (A) Building public consensus around and sustaining attention to a long-range public policy
41 agenda. In developing the agenda, the commission and council shall seek input from the
42 Legislature, the Governor, the governing boards, and the State Board of Education and local
43 school districts to create the necessary linkages to assure smooth, effective and seamless
44 movement of students through the public education and post-secondary education systems and to
45 ensure that the needs of public school courses and programs can be fulfilled by the graduates
46 produced and the programs offered;

47 (B) Assisting governing boards in carrying out their duty effectively to govern the individual
48 institutions of higher education;

49 (4) Serve as a point of contact to state policymakers:

50 (A) The Governor for the public policy agenda; and

51 (B) The Legislature by maintaining a close working relationship with the legislative
52 leadership and the Legislative Oversight Commission on Education Accountability;

53 (5) Upon request, provide shared services to a state institution of higher education;

54 (6) Administer scholarship and grant programs as provided for in this code;

55 (7) Establish and implement the benchmarks and performance indicators for state colleges
56 and universities necessary to measure institutional progress in achieving state policy priorities and

57 institutional missions pursuant to §18B-1D-7 of this code;

58 (8) Establish a formal process for recommending capital investment needs and for
59 determining priorities for state colleges and universities for these investments for consideration by
60 the Governor and the Legislature as part of the appropriation request process pursuant to §18B-
61 19-1 *et seq.* of this code;

62 (9) Except the statutorily and administratively exempted schools, develop standards and
63 evaluate governing board requests for capital project financing in accordance with §18B-19-1 *et*
64 *seq.* of this code;

65 (10) Except the statutorily and administratively exempted schools, ensure that governing
66 boards manage capital projects and facilities needs effectively, including review and approval of
67 capital projects, in accordance with §18B-19-1 *et seq.* of this code;

68 (11) Acquire legal services as considered necessary, including representation of the
69 commission, the governing boards, employees, and officers before any court or administrative
70 body, notwithstanding any other provision of this code to the contrary. The counsel may be
71 employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may,
72 but is not required to, call upon the Attorney General for legal assistance and representation as
73 provided by law;

74 (12) Employ a chancellor, and any interim chancellor employed shall meet all criteria
75 required of the chancellor, pursuant to §18B-1B-5 of this code;

76 (13) Employ other staff as necessary and appropriate to carry out the duties and
77 responsibilities of the commission and the council, in accordance with §18B-4-1 *et seq.* of this
78 code;

79 (14) Provide suitable offices in Kanawha County for the chancellor, vice chancellors, and
80 other staff;

81 (15) Approve the total compensation package from all sources for presidents of institutions
82 under its jurisdiction, except the statutorily exempted schools, as proposed by the governing

83 boards. The governing boards, except the governing boards of the statutorily exempted schools,
84 must obtain approval from the commission of the total compensation package both when
85 institutional presidents are employed initially and afterward when any change is made in the
86 amount of the total compensation package: *Provided*, That the commission shall receive notice,
87 but need not approve or confirm, an increase in the compensation of an institutional president that
88 is exactly in the ratio of compensation increases allocated to all institutional employees and
89 approved by the governing board to expressly include the president;

90 (16) Assist and facilitate the work of the institutions to implement the policy of the state to
91 assure that parents and students have sufficient information at the earliest possible age on which
92 to base academic decisions about what is required for students to be successful in college, other
93 post-secondary education and careers related, as far as possible, to results from current
94 assessment tools in use in West Virginia;

95 (17) Approve and implement a uniform standard jointly with the council to determine which
96 students shall be placed in remedial or developmental courses. The standard shall be aligned with
97 college admission tests and assessment tools used in West Virginia and shall be applied uniformly
98 by the governing boards. The chancellors shall develop a clear, concise explanation of the
99 standard which they shall communicate to the State Board of Education and the state
100 superintendent of schools;

101 (18) Jointly with the council and in conjunction with the West Virginia Network, support
102 systemwide technology needs through leveraged consortium purchasing, software, database and
103 networking support, and other services including, but not limited to, the following:

104 (A) Expanding distance learning and technology networks to enhance teaching and
105 learning, and promoting access to quality educational offerings with minimum duplication of effort;
106 and

107 (B) Increasing the delivery of instruction to nontraditional students, providing services to
108 business and industry, and increasing the management capabilities of the higher education

109 system.

110 (C) Notwithstanding any other provision of law or this code to the contrary, the council,
111 commission, and governing boards are not subject to the jurisdiction of the Chief Technology
112 Officer for any purpose;

113 (19) Propose rules in accordance with §29A-3A-1 *et seq.* and §18B-1-6 of this code to
114 ensure that, within sound academic policy, a student may transfer and apply toward the
115 requirements of any postsecondary credential the maximum number of credits earned at any
116 regionally accredited in-state or out-of-state institution of higher education in a manner that
117 minimizes the need to repeat courses or incur additional costs. This requirement applies to
118 transfer processes for all levels of postsecondary programs delivered at community and technical
119 colleges, baccalaureate-degree-granting institutions, and graduate-degree-granting institutions;

120 (20) Propose rules in accordance with §29A-3A-1 *et seq.* and §18B-1-6 of this code to
121 develop a program through which a student who has gained knowledge and skills through
122 employment, participation in education, and training at vocational schools or other education
123 institutions, or Internet-based education programs, may demonstrate by competency-based
124 assessment that he or she has the necessary knowledge and skills to be granted academic credit
125 or advanced placement standing toward the requirements of an associate's degree or a bachelor's
126 degree at a state institution of higher education;

127 (21) Seek out and attend regional, national, and international meetings and forums on
128 education and workforce development-related topics as, in the commission's discretion, are
129 critical for the performance of their duties as members, for the purpose of keeping abreast of
130 education trends and policies to aid it in developing the policies for this state to meet the
131 established education goals, objectives, and priorities pursuant to §18B-1-1a and §18B-1D-1 *et*
132 *seq.* of this code;

133 (22) Promulgate and implement a rule for governing boards and institutions to follow when
134 considering capital projects pursuant to §18B-19-1 *et seq.* of this code, which rule shall provide for

135 appropriate deference to the value judgments of governing boards and may not apply to the
136 statutorily or administratively exempted schools;

137 (23) Submit to the appropriate agencies of the executive and legislative branches of state
138 government an appropriation request that reflects recommended appropriations for the
139 commission and the governing boards under its jurisdiction including the statutorily and
140 administratively exempted schools. The commission shall submit as part of its appropriation
141 request the separate recommended appropriation request it received from the council, both for the
142 council and for the governing boards under the council's jurisdiction. The commission annually
143 shall submit the proposed allocations based on the funding formula model required by subdivision
144 (a)(2) of this section;

145 (24) Promulgate rules allocating reimbursement of appropriations, if made available by the
146 Legislature, to governing boards for qualifying noncapital expenditures incurred in providing
147 services to students with physical, learning, or severe sensory disabilities;

148 (25) Pursuant to §29A-3A-1 *et seq.* and §18B-1-6 of this code, promulgate rules necessary
149 or expedient to fulfill the purposes of this chapter and Chapter 18C of this code;

150 (26) Determine when a joint rule among the governing boards under its jurisdiction is
151 necessary or required by law and, in those instances, in consultation with the governing boards
152 under its jurisdiction, promulgate the joint rule;

153 (27) Promulgate and implement a rule jointly with the council whereby course credit earned
154 at a community and technical college transfers for program credit at any other state institution of
155 higher education and is not limited to fulfilling a general education requirement;

156 (28) Promulgate a rule pursuant to §18B-10-1 of this code establishing tuition and fee
157 policy for all governing boards under the jurisdiction of the commission, except the statutorily and
158 administratively exempted schools. The rule shall include, but is not limited to, the following:

159 (A) Differences among institutional missions;

160 (B) Strategies for promoting student access;

161 (C) Consideration of charges to out-of-state students; and

162 (D) Such other policies as the commission and council consider appropriate;

163 (29) Notwithstanding any other provision of this code to the contrary sell, lease, convey, or
164 otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-1 *et*
165 *seq.* of this code;

166 (30) Policy analysis and research focused on issues affecting institutions of higher
167 education generally or a geographical region thereof;

168 (31) Development and approval of institutional mission definitions except the statutorily
169 and administratively exempted schools: *Provided*, That the commission may use funds
170 appropriated by the Legislature for incentive funds to influence institutional behavior in ways that
171 are consistent with public priorities, including the statutorily and administratively exempted
172 schools;

173 (32) Academic program review and approval for governing boards under its jurisdiction,
174 except the statutorily and administratively exempted schools. The review and approval includes
175 use of institutional missions as a template to judge the appropriateness of both new and existing
176 programs and the authority to implement needed changes.

177 (A) The commission's authority to review and approve academic programs for the
178 statutorily and administratively exempted schools is limited to programs that are proposed to be
179 offered at a new location not presently served by that institution: *Provided*, That West Virginia
180 University and the West Virginia University Institute of Technology are subject to the commission's
181 authority as provided in §18B-1C-2 of this code.

182 (B) In reviewing and approving academic programs, the commission shall focus on the
183 following policy concerns:

184 (i) New programs may not be implemented which change the institutional mission, unless
185 the institution also receives approval for expanding the institutional mission;

186 (ii) New programs which require significant additional expense investments for

187 implementation may not be implemented unless the institution demonstrates that:

188 (I) The expenses shall be addressed by effective reallocations of existing institutional
189 resources; or

190 (II) The expenses can be legitimately spread out over future years and shall be covered by
191 reasonably anticipated additional net revenues from new enrollments;

192 (iii) A new undergraduate program which is significantly similar to an existing program
193 already in the geographic service area may not be implemented unless the institution requesting
194 the new program demonstrates a compelling need in the service area that is not being met by the
195 existing program: *Provided*, That the academic programs of the statutorily and administratively
196 exempted schools are not to be taken into consideration except as it relates to academic programs
197 offered at West Virginia University in Beckley and West Virginia University Institute of Technology
198 in Beckley.

199 (C) The commission shall approve or disapprove proposed academic degree programs in
200 those instances where approval is required as soon as practicable. The commission shall maintain
201 by rule a format model by which a new program approval shall be requested by an institution.
202 When a request for approval of a new program is submitted to the commission, the chancellor
203 shall provide notice within two weeks as to whether the submission meets the required format, and
204 if it does not the chancellor shall identify each specific deficiency and return the request to the
205 institution. The institution may refile the request for approval with the commission to address any
206 identified deficiencies. Within 30 days after the chancellor's confirmation that the request meets
207 the required format, the commission shall either approve or disapprove the request for the new
208 program. The commission may not withhold approval unreasonably.

209 (33) Distribution of funds appropriated to the commission, including incentive and
210 performance-based funds;

211 (34) Administration of state and federal student aid programs under the supervision of the
212 vice chancellor for administration, including promulgation of rules necessary to administer those

213 programs;

214 (35) Serving as the agent to receive and disburse public funds when a governmental entity
215 requires designation of a statewide higher education agency for this purpose;

216 (36) Developing and distributing information, assessment, accountability and personnel
217 systems for state colleges and universities, including maintaining statewide data systems that
218 facilitate long-term planning and accurate measurement of strategic outcomes and performance
219 indicators;

220 (37) Jointly with the council, promulgating and implementing rules for licensing and
221 oversight for both public and private degree-granting and nondegree-granting institutions that
222 provide post-secondary education courses or programs in the state. The council has authority and
223 responsibility for approval of all post-secondary courses or programs providing community and
224 technical college education as defined in §18B-1-2 of this code;

225 (38) Developing, facilitating, and overseeing statewide and regional projects and initiatives
226 related to providing post-secondary education at the baccalaureate level and above such as those
227 using funds from federal categorical programs or those using incentive and performance-based
228 funds from any source;

229 (39) (A) For all governing boards under its jurisdiction, except for the statutorily exempted
230 schools, the commission shall review institutional operating budgets, review, and approve capital
231 budgets, and distribute incentive and performance-based funds.

232 (B) For the governing boards of the statutorily exempted schools, the commission shall
233 distribute incentive and performance-based funds and may review and comment upon the
234 institutional operating budgets and capital budgets. The commission's comments, if any, shall be
235 made part of the governing board's minute record and shall be filed with the Legislative Oversight
236 Commission on Education Accountability;

237 (40) May provide information, research, and recommendations to state colleges and
238 universities relating to programs and vocations with employment rates greater than 90 percent

239 within six months post-graduation; and

240 (41) May provide information, research, and recommendations to state colleges and
 241 universities on coordinating with the West Virginia State Board of Education about complimentary
 242 programs.

243 (b) In addition to the powers and duties provided in this section and any other powers and
 244 duties assigned to it by law, the commission has other powers and duties necessary or expedient
 245 to accomplish the purposes of this chapter and Chapter 18C of this code: *Provided*, That the
 246 provisions of this subsection may not be construed to shift management authority from the
 247 governing boards to the commission.

248 (c) The commission may withdraw specific powers of a governing board under its
 249 jurisdiction for a period not to exceed two years, if the commission determines that either of the
 250 following conditions exist:

251 (1) The commission has received information, substantiated by independent audit, of
 252 significant mismanagement or failure to carry out the powers and duties of the governing board
 253 according to state law; or

254 (2) Other circumstances which, in the view of the commission, severely limit the capacity of
 255 the governing board to exercise its powers or carry out its duties and responsibilities.

256 The commission may not withdraw specific powers for a period exceeding two years.
 257 During the withdrawal period, the commission shall take all steps necessary to reestablish sound,
 258 stable and responsible institutional governance.

259 (d) On or after July 1, 2024, nothing in this section authorizes the commission to restrict or
 260 regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid
 261 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this
 262 code.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.
§18B-2A-4. Powers and duties of governing boards generally.

1 Each governing board separately has the following powers and duties:

2 (a) Determine, control, supervise and manage the financial, business and education
3 policies and affairs of the state institution of higher education under its jurisdiction;

4 (b) Develop a master plan for the institution under its jurisdiction.

5 (1) The ultimate responsibility for developing and updating each master plan at the
6 institution resides with the governing board, but the ultimate responsibility for approving the final
7 version of each master plan, including periodic updates, resides with the commission or council,
8 as appropriate: *Provided*, That commission approval is not required for master plans of exempted
9 schools.

10 (2) Each master plan shall include, but is not limited to, the following:

11 (A) A detailed demonstration of how the master plan will be used to meet the goals,
12 objectives and priorities of the compact;

13 (B) A well-developed set of goals, objectives and priorities outlining missions, degree
14 offerings, resource requirements, physical plant needs, personnel needs, enrollment levels and
15 other planning determinates and projections necessary in a plan to assure that the needs of the
16 institution's area of responsibility for a quality system of higher education are addressed;

17 (C) Documentation showing how the governing board involved the commission or council,
18 as appropriate, constituency groups, clientele of the institution and the general public in the
19 development of all segments of the master plan.

20 (3) The plan shall be established for periods of not fewer than three nor more than five
21 years and shall be revised periodically as necessary, including adding or deleting programs. The
22 commission may review and comment upon the master plan of an exempted school. The
23 commission may review, but may not approve or disapprove, additions or deletions of degree
24 programs, except as expressly provided for in subdivision (39), subsection (a), section four of
25 article one-b of this chapter.

26 (4) For the exempted schools, the master plan shall be updated at least bi-annually and

27 include the steps taken to meet the legislatively established policies contained in article one-d of
28 this chapter and reports on each of the data elements identified in article one-d of this chapter,
29 including progress that the exempted schools are making relating to retention and graduation
30 rates for resident students by organization and each college within the organization. The
31 exempted schools shall provide copies of their respective master plan to the Legislative Oversight
32 Commission on Education Accountability and the commission.

33 (c) Develop a ten-year campus development plan in accordance with article 19 of this
34 chapter;

35 (d) Prescribe for the institution, under its jurisdiction, in accordance with its master plan and
36 compact, specific functions and responsibilities to achieve the goals, objectives and priorities
37 established in articles one and one-d of this chapter to meet the higher education needs of its area
38 of responsibility and to avoid unnecessary duplication;

39 (e) Direct the preparation of an appropriation request for the institution under its
40 jurisdiction, which relates directly to missions, goals and projections found in the master plan and
41 the compact;

42 (f) Consider, revise and submit for review and approval to the commission or council, as
43 appropriate, an appropriation request on behalf of the institution under its jurisdiction, including the
44 exempted schools;

45 (g) Review, at least every five years, all academic programs offered at the institution under
46 its jurisdiction. The review shall address the viability, adequacy and necessity of the programs in
47 relation to established state goals, objectives and priorities, the master plan, the compact and the
48 education and workforce needs of its responsibility district. As a part of the review, each governing
49 board shall require the institution under its jurisdiction to conduct periodic studies of its graduates
50 and their employers to determine placement patterns and the effectiveness of the education
51 experience. Where appropriate, these studies should coincide with the studies required of many
52 academic disciplines by their accrediting bodies;

53 (h) Ensure that the sequence and availability of academic programs and courses offered
54 by the institution under its jurisdiction is such that students have the maximum opportunity to
55 complete programs in the time frame normally associated with program completion. Each
56 governing board is responsible to see that the needs of nontraditional college-age students are
57 appropriately addressed and, to the extent it is possible for the individual governing board to
58 control, to assure core course work completed at the institution is transferable to any other state
59 institution of higher education for credit with the grade earned;

60 (i) Subject to article one-b of this chapter, approve the teacher education programs offered
61 in the institution under its control. In order to permit graduates of teacher education programs to
62 receive a degree from a nationally accredited program and in order to prevent expensive
63 duplication of program accreditation, the commission may select and use one nationally
64 recognized teacher education program accreditation standard as the appropriate standard for
65 program evaluation;

66 (j) Involve faculty, students and classified employees in institution-level planning and
67 decision making when those groups are affected;

68 (k) Subject to federal law and pursuant to articles seven, eight, nine and nine-a of this
69 chapter and to rules adopted by the commission and the council, administer a system for the
70 management of personnel matters, including, but not limited to, discipline for employees at the
71 institution under its jurisdiction: *Provided*, That any rules adopted by the commission and the
72 council do not apply to exempted schools;

73 (l) Administer a system for hearing employee grievances and appeals. Notwithstanding
74 any other provision of this code to the contrary, the procedure established in article two, chapter
75 six-c of this code is the exclusive mechanism for hearing prospective employee grievances and
76 appeals;

77 (m) Solicit and use or expend voluntary support, including financial contributions and
78 support services, for the institution under its jurisdiction;

79 (n) Appoint a president for the institution under its jurisdiction, subject to section six, article
80 one-b of this chapter;

81 (o) Conduct written performance evaluations of the president, pursuant to section six,
82 article one-b of this chapter;

83 (p) Employ all faculty and staff at the institution under its jurisdiction. The employees
84 operate under the supervision of the president, but are employees of the governing board;

85 (q) Submit to the commission or council, as appropriate, any data or reports requested by
86 the commission or council within the time frame set by the commission or council;

87 (r) Enter into contracts or consortium agreements with the public schools, private schools
88 or private industry to provide technical, vocational, college preparatory, remedial and customized
89 training courses at locations either on campuses of the state institutions of higher education or at
90 off-campus locations in the institution's responsibility district. To accomplish this goal, the boards
91 may share resources among the various groups in the community;

92 (s) Provide and transfer funds and property to certain corporations pursuant to section ten,
93 article twelve of this chapter;

94 (t) Delegate, with prescribed standards and limitations, the part of its power and control
95 over the business affairs of the institution to the president in any case where it considers the
96 delegation necessary and prudent in order to enable the institution to function in a proper and
97 expeditious manner and to meet the requirements of its master plan and compact. If a governing
98 board elects to delegate any of its power and control under this subsection, it shall enter the
99 delegation in the minutes of the meeting when the decision was made and shall notify the
100 commission or council, as appropriate. Any delegation of power and control may be rescinded by
101 the appropriate governing board, the commission or council, as appropriate, at any time, in whole
102 or in part, except that the commission may not revoke delegations of authority made by the
103 governing board of the exempted schools.

104 (u) Unless changed by the commission or the council, as appropriate, continue to abide by

105 existing rules setting forth standards for accepting advanced placement credit for the institution
106 under its jurisdiction. Individual departments at a state institution of higher education, with
107 approval of the faculty senate, may require higher scores on the advanced placement test than
108 scores designated by the governing board when the credit is to be used toward meeting a
109 requirement of the core curriculum for a major in that department;

110 (v) Consult, cooperate and coordinate with the State Treasurer and the State Auditor to
111 update as necessary and maintain an efficient and cost-effective system for the financial
112 management and expenditure of appropriated and non-appropriated revenue at the institution
113 under its jurisdiction. The system shall ensure that properly submitted requests for payment are
114 paid on or before the due date but, in any event, within 15 days of receipt in the State Auditor's
115 Office;

116 (w) In consultation with the appropriate chancellor and the Secretary of the Department of
117 Administration, develop, update as necessary and maintain a plan to administer a consistent
118 method of conducting personnel transactions, including, but not limited to, hiring, dismissal,
119 promotions, changes in salary or compensation and transfers at the institution under its
120 jurisdiction. Each personnel transaction shall be accompanied by the appropriate standardized
121 system or forms, as appropriate, which shall be submitted to the respective governing board and
122 the Department of Administration:

123 (1) Not later than July 1, 2012, the Department of Administration shall make available to
124 each governing board the option of using a standardized electronic system for these personnel
125 transactions.

126 (2) The Secretary of the Department of Administration may suspend a governing board's
127 participation in the standardized electronic system if he or she certifies to the Governor that the
128 governing board has failed repeatedly and substantially to comply with the department's policies
129 for administering the electronic system;

130 (x) Notwithstanding any other provision of this code to the contrary, transfer funds from any

131 account specifically appropriated for its use to any corresponding line item in a general revenue
132 account at any agency or institution under its jurisdiction as long as the transferred funds are used
133 for the purposes appropriated;

134 (y) Transfer funds from appropriated special revenue accounts for capital improvements
135 under its jurisdiction to special revenue accounts at agencies or institutions under its jurisdiction as
136 long as the transferred funds are used for the purposes appropriated in accordance with article
137 nineteen of this chapter;

138 (z) Notwithstanding any other provision of this code to the contrary, acquire legal services
139 that are necessary, including representation of the governing board, its institution, employees and
140 officers before any court or administrative body. The counsel may be employed either on a salaried
141 basis or on a reasonable fee basis. In addition, the governing board may, but is not required to, call
142 upon the Attorney General for legal assistance and representation as provided by law; and

143 (aa) Contract and pay for disability insurance for a class or classes of employees at a state
144 institution of higher education under its jurisdiction.

145 (bb) A governing board under the jurisdiction of the commission may contract and pay for
146 any supplemental employee benefit, at the governing board’s discretion: *Provided*, That if such
147 supplemental benefit program incurs institutional expense, then the board may not delegate the
148 approval of such supplemental employee benefit program.

149 (cc) On or after July 1, 2024, nothing in this section authorizes a governing board to restrict
150 or regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid
151 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this
152 code.

**ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL
COLLEGE EDUCATION.**

§18B-2B-6. Powers and duties of the council.

1 (a) The council is the sole agency responsible for administration of vocational-technical-
2 occupational education and community and technical college education in the state. The council
3 has jurisdiction and authority over the community and technical colleges and the statewide
4 network of independently accredited community and technical colleges as a whole, including
5 community and technical college education programs as defined in section two, article one of this
6 chapter.

7 (b) The council shall propose rules pursuant to section six, article one of this chapter and
8 article three-a, chapter twenty-nine-a of this code to implement the provisions of this section and
9 applicable provisions of article one-d of this chapter:

10 (1) To implement the provisions of article one-d of this chapter relevant to community and
11 technical colleges, the council may propose rules jointly with the commission, or separately, and
12 may choose to address all components of the accountability system in a single rule or may
13 propose additional rules to cover specific components;

14 (2) The rules pertaining to financing policy and benchmarks and indicators required by this
15 section shall be filed with the Legislative Oversight Commission on Education Accountability by
16 October 1, 2008. Nothing in this subsection requires other rules of the council to be promulgated
17 again under the procedure set forth in article three-a, chapter twenty-nine-a of this code unless
18 such rules are rescinded, revised, altered or amended; and

19 (3) The Legislature finds that an emergency exists and, therefore, the council shall propose
20 an emergency rule or rules to implement the provisions of this section relating to the financing
21 policy and benchmarks and indicators in accordance with section six, article one of this chapter
22 and article three-a, chapter twenty-nine-a of this code by October 1, 2008. The emergency rule or
23 rules may not be implemented without prior approval of the Legislative Oversight Commission on
24 Education Accountability.

25 (c) The council has the following powers and duties relating to the authority established in
26 subsection (a) of this section:

27 (1) Develop, oversee and advance the public policy agenda for community and technical
28 college education for the purpose of accomplishing the mandates of this section, including, but not
29 limited to, the following:

30 (A) Achieving the goals and objectives established in articles one and one-d of this
31 chapter;

32 (B) Addressing the goals and objectives contained in the institutional compacts created
33 pursuant to section seven, article one-d of this chapter; and

34 (C) Developing and implementing the master plan described in section five, article one-d of
35 this chapter;

36 (2) Propose a legislative rule pursuant to subsection (b) of this section and article three-a,
37 chapter twenty-nine-a of this code to develop and implement a financing policy for community and
38 technical college education in West Virginia. The rule shall meet the following criteria:

39 (A) Provide an adequate level of education and general funding for institutions pursuant to
40 section five, article one-a of this chapter;

41 (B) Serve to maintain institutional assets, including, but not limited to, human and physical
42 resources and deferred maintenance;

43 (C) Establish a plan for strategic funding to strengthen capacity for support of community
44 and technical college education; and

45 (D) Establish a plan that measures progress and provides performance-based funding to
46 institutions which make significant progress in the following specific areas:

47 (i) Achieving the objectives and priorities established in article one-d of this chapter;

48 (ii) Serving targeted populations, especially working age adults 25 years of age and over;

49 (iii) Providing access to high-cost, high-demand technical programs in every region of the
50 state;

51 (iv) Increasing the percentage of functionally literate adults in every region of the state; and

52 (v) Providing high-quality community and technical college education services to residents

53 of every region of the state.

54 (3) Create a policy leadership structure relating to community and technical college
55 education capable of the following actions:

56 (A) Developing, building public consensus around and sustaining attention to a long-range
57 public policy agenda. In developing the agenda, the council shall seek input from the Legislature
58 and the Governor and specifically from the State Board of Education and local school districts in
59 order to create the necessary linkages to assure smooth, effective and seamless movement of
60 students through the public education and post-secondary education systems and to ensure that
61 the needs of public school courses and programs can be fulfilled by the graduates produced and
62 the programs offered;

63 (B) Ensuring that the governing boards of the institutions under the council's jurisdiction
64 carry out their duty effectively to govern the individual institutions of higher education; and

65 (C) Holding each community and technical college and the statewide network of
66 independently accredited community and technical colleges as a whole accountable for
67 accomplishing their missions and achieving the goals and objectives established in articles one,
68 one-d and three-c of this chapter;

69 (4) Develop for inclusion in the statewide public agenda, a plan for raising education
70 attainment, increasing adult literacy, promoting workforce and economic development and
71 ensuring access to advanced education for the citizens of West Virginia;

72 (5) Provide statewide leadership, coordination, support, and technical assistance to the
73 community and technical colleges and to provide a focal point for visible and effective advocacy for
74 their work and for the public policy agendas approved by the commission and council;

75 (6) Review and adopt annually all institutional compacts for the community and technical
76 colleges pursuant to the provisions of section seven, article one-d of this chapter;

77 (7) Fulfill the mandates of the accountability system established in article one-d of this
78 chapter and report on progress in meeting established goals, objectives, and priorities to the

79 elected leadership of the state;

80 (8) Propose a legislative rule pursuant to subsection (b) of this section and article three-a,
81 chapter twenty-nine-a of this code to establish benchmarks and indicators in accordance with the
82 provisions of this subsection;

83 (9) Establish and implement the benchmarks and performance indicators necessary to
84 measure institutional progress:

85 (A) In meeting state goals, objectives, and priorities established in articles one and one-d
86 of this chapter;

87 (B) In carrying out institutional missions; and

88 (C) In meeting the essential conditions established in article three-c of this chapter;

89 (10) Establish a formal process for identifying needs for capital investments and for
90 determining priorities for these investments for consideration by the Governor and the Legislature
91 as part of the appropriation request process. Notwithstanding the language in subdivision eleven,
92 subsection a, section four, article one-b of this chapter, the commission is not a part of the process
93 for identifying needs for capital investments for the statewide network of independently accredited
94 community and technical colleges;

95 (11) Draw upon the expertise available within the Governor's Workforce Investment Office
96 and the West Virginia Development Office as a resource in the area of workforce development and
97 training;

98 (12) Acquire legal services that are considered necessary, including representation of the
99 council, its institutions, employees and officers before any court or administrative body,
100 notwithstanding any other provision of this code to the contrary. The counsel may be employed
101 either on a salaried basis or on a reasonable fee basis. In addition, the council may, but is not
102 required to, call upon the Attorney General for legal assistance and representation as provided by
103 law;

104 (13) Employ a chancellor for community and technical college education pursuant to

105 section three of this article;

106 (14) Employ other staff as necessary and appropriate to carry out the duties and
107 responsibilities of the council consistent with the provisions of section two, article four of this
108 chapter;

109 (15) Employ other staff as necessary and appropriate to carry out the duties and
110 responsibilities of the council who are employed solely by the council;

111 (16) Provide suitable offices in Charleston for the chancellor and other staff: *Provided*, That
112 the offices may be located outside of Charleston at a technology and research center: *Provided*,
113 *however*, That the current employees of WVNET shall not be moved from Monongalia County
114 without legislative approval;

115 (17) Approve the total compensation package from all sources for presidents of community
116 and technical colleges, as proposed by the governing boards. The governing boards must obtain
117 approval from the council of the total compensation package both when presidents are employed
118 initially and subsequently when any change is made in the amount of the total compensation
119 package;

120 (18) Establish and implement policies and procedures to ensure that students may transfer
121 and apply toward the requirements for a degree the maximum number of credits earned at any
122 regionally accredited in-state or out-of-state higher education institution with as few requirements
123 to repeat courses or to incur additional costs as is consistent with sound academic policy;

124 (19) Establish and implement policies and programs, jointly with the community and
125 technical colleges, through which students who have gained knowledge and skills through
126 employment, participation in education and training at vocational schools or other education
127 institutions, or internet-based education programs, may demonstrate by competency-based
128 assessment that they have the necessary knowledge and skills to be granted academic credit or
129 advanced placement standing toward the requirements of an associate degree or a bachelor's
130 degree at a state institution of higher education;

131 (20) Seek out and attend regional and national meetings and forums on education and
132 workforce development-related topics, as council members consider critical for the performance of
133 their duties. The council shall keep abreast of national and regional community and technical
134 college education trends and policies to aid members in developing the policies for this state that
135 meet the education goals and objectives established in articles one and one-d of this chapter;

136 (21) Assess community and technical colleges for the payment of expenses of the council
137 or for the funding of statewide services, obligations or initiatives related specifically to the provision
138 of community and technical college education;

139 (22) Promulgate rules allocating reimbursement of appropriations, if made available by the
140 Legislature, to community and technical colleges for qualifying noncapital expenditures incurred in
141 the provision of services to students with physical, learning or severe sensory disabilities;

142 (23) Assume the prior authority of the commission in examining and approving tuition and
143 fee increase proposals submitted by community and technical college governing boards as
144 provided in section one, article ten of this chapter;

145 (24) Develop and submit to the commission, a single budget for community and technical
146 college education that reflects recommended appropriations for community and technical colleges
147 and that meets the following conditions:

148 (A) Incorporates the provisions of the financing rule mandated by this section to measure
149 and provide performance funding to institutions which achieve or make significant progress toward
150 achieving established state objectives and priorities;

151 (B) Considers the progress of each institution toward meeting the essential conditions set
152 forth in section three, article three-c of this chapter, including independent accreditation; and

153 (C) Considers the progress of each institution toward meeting the goals, objectives, and
154 priorities established in article one-d of this chapter and its approved institutional compact.

155 (25) Administer and distribute the independently accredited community and technical
156 college development account;

157 (26) Establish a plan of strategic funding to strengthen capacity for support and assure
158 delivery of high-quality community and technical college education in all regions of the state;

159 (27) Foster coordination among all state-level, regional and local entities providing post-
160 secondary vocational education or workforce development and coordinate all public institutions
161 and entities that have a community and technical college mission;

162 (28) Assume the principal responsibility for oversight of those community and technical
163 colleges seeking independent accreditation and for holding governing boards accountable for
164 meeting the essential conditions pursuant to article three-c of this chapter;

165 (29) Advise and consent in the appointment of the presidents of the community and
166 technical colleges pursuant to section six, article one-b of this chapter. The role of the council in
167 approving a president is to assure through personal interview that the person selected
168 understands and is committed to achieving the goals and objectives established in the institutional
169 compact and in articles one, one-d and three-c of this chapter;

170 (30) Provide a single, statewide link for current and prospective employers whose needs
171 extend beyond one locality;

172 (31) Provide a mechanism capable of serving two or more institutions to facilitate joint
173 problem-solving in areas including, but not limited to the following:

174 (A) Defining faculty roles and personnel policies;

175 (B) Delivering high-cost technical education programs across the state;

176 (C) Providing one-stop service for workforce training to be delivered by multiple
177 institutions; and

178 (D) Providing opportunities for resource-sharing and collaborative ventures;

179 (32) Provide support and technical assistance to develop, coordinate, and deliver effective
180 and efficient community and technical college education programs and services in all regions of
181 the state;

182 (33) Assist the community and technical colleges in establishing and promoting links with

183 business, industry and labor in the geographic areas for which each community and technical
184 college is responsible;

185 (34) Develop alliances among the community and technical colleges for resource sharing,
186 joint development of courses and courseware, and sharing of expertise and staff development;

187 (35) Serve aggressively as an advocate for development of a seamless curriculum;

188 (36) Cooperate with all providers of education services in the state to remove barriers
189 relating to a seamless system of public and higher education and to transfer and articulate
190 between and among community and technical colleges, state colleges and universities and public
191 education, preschool through grade twelve;

192 (37) Encourage the most efficient use of available resources;

193 (38) Coordinate with the commission in informing public school students, their parents and
194 teachers of the academic preparation that students need in order to be prepared adequately to
195 succeed in their selected fields of study and career plans, including presentation of academic
196 career fairs;

197 (39) Jointly with the commission, approve and implement a uniform standard, as
198 developed by the chancellors, to determine which students shall be placed in remedial or
199 developmental courses. The standard shall be aligned with college admission tests and
200 assessment tools used in West Virginia and shall be applied uniformly by the governing boards
201 throughout the public higher education system. The chancellors shall develop a clear, concise
202 explanation of the standard which the governing boards shall communicate to the State Board of
203 Education and the State Superintendent of Schools;

204 (40) Develop and implement strategies and curriculum for providing developmental
205 education which shall be applied by any state institution of higher education providing
206 developmental education;

207 (41) Develop a statewide system of community and technical college programs and
208 services in every region of West Virginia for competency-based certification of knowledge and

209 skills, including a statewide competency-based associate degree program;

210 (42) Review and approve all institutional master plans for the community and technical
211 colleges pursuant to section four, article two-a of this chapter;

212 (43) Propose rules for promulgation pursuant to subsection (b) of this section and article
213 three-a, chapter twenty-nine-a of this code that are necessary or expedient for the effective and
214 efficient performance of community and technical colleges in the state;

215 (44) In its sole discretion, transfer any rule under its jurisdiction, other than a legislative
216 rule, to the jurisdiction of the governing boards who may rescind, revise, alter or amend any rule
217 transferred pursuant to rules adopted by the council and provide technical assistance to the
218 institutions under its jurisdiction to aid them in promulgating rules;

219 (45) Develop for inclusion in the higher education report card, as defined in section eight,
220 article one-d of this chapter, a separate section on community and technical colleges. This section
221 shall include, but is not limited to, evaluation of the institutions based upon the benchmarks and
222 indicators developed in subdivision (9) of this subsection;

223 (46) Facilitate continuation of the Advantage Valley Community College Network under the
224 leadership and direction of Marshall Community and Technical College;

225 (47) Initiate and facilitate creation of other regional networks of affiliated community and
226 technical colleges that the council finds to be appropriate and in the best interests of the citizens to
227 be served;

228 (48) Develop with the State Board of Education plans for secondary and post-secondary
229 vocational-technical-occupational and adult basic education, including, but not limited to the
230 following:

231 (A) Policies to strengthen vocational-technical-occupational and adult basic education;
232 and

233 (B) Programs and methods to assist in the improvement, modernization and expanded
234 delivery of vocational-technical-occupational and adult basic education programs;

235 (49) Distribute federal vocational education funding provided under the Carl D. Perkins
236 Vocational and Technical Education Act of 1998, PL 105-332, with an emphasis on distributing
237 financial assistance among secondary and post-secondary vocational-technical-occupational and
238 adult basic education programs to help meet the public policy agenda.

239 In distributing funds the council shall use the following guidelines:

240 (A) The State Board of Education shall continue to be the fiscal agent for federal vocational
241 education funding;

242 (B) The percentage split between the State Board of Education and the council shall be
243 determined by rule promulgated by the council under the provisions of article three-a, chapter
244 twenty-nine-a of this code. The council shall first obtain the approval of the State Board of
245 Education before proposing a rule;

246 (50) Collaborate, cooperate and interact with all secondary and post-secondary
247 vocational-technical-occupational and adult basic education programs in the state, including the
248 programs assisted under the federal Carl D. Perkins Vocational and Technical Education Act of
249 1998, PL 105-332, and the Workforce Investment Act of 1998, to promote the development of
250 seamless curriculum and the elimination of duplicative programs;

251 (51) Coordinate the delivery of vocational-technical-occupational and adult basic
252 education in a manner designed to make the most effective use of available public funds to
253 increase accessibility for students;

254 (52) Analyze and report to the State Board of Education on the distribution of spending for
255 vocational-technical-occupational and adult basic education in the state and on the availability of
256 vocational-technical-occupational and adult basic education activities and services within the
257 state;

258 (53) Promote the delivery of vocational-technical-occupational education, adult basic
259 education and community and technical college education programs in the state which emphasize
260 the involvement of business, industry and labor organizations;

261 (54) Promote public participation in the provision of vocational-technical-occupational
262 education, adult basic education and community and technical education at the local level,
263 emphasizing programs which involve the participation of local employers and labor organizations;

264 (55) Promote equal access to quality vocational-technical-occupational education, adult
265 basic education and community and technical college education programs to handicapped and
266 disadvantaged individuals, adults in need of training and retraining, single parents, homemakers,
267 participants in programs designed to eliminate sexual bias and stereotyping and criminal offenders
268 serving in correctional institutions;

269 (56) Meet annually between the months of October and December with the Advisory
270 Committee of Community and Technical College Presidents created pursuant to section eight of
271 this article to discuss those matters relating to community and technical college education in which
272 advisory committee members or the council may have an interest;

273 (57) Accept and expend any gift, grant, contribution, bequest, endowment or other money
274 for the purposes of this article;

275 (58) Assume the powers set out in section nine of this article. The rules previously
276 promulgated by the State College System Board of Directors pursuant to that section and
277 transferred to the commission are hereby transferred to the council and shall continue in effect
278 until rescinded, revised, altered or amended by the council;

279 (59) Pursuant to the provisions of subsection (b) of this section and article three-a, chapter
280 twenty-nine-a of this code, promulgate a uniform joint legislative rule with the commission for the
281 purpose of standardizing, as much as possible, the administration of personnel matters among the
282 institutions of higher education;

283 (60) Determine when a joint rule among the governing boards of the community and
284 technical colleges is necessary or required by law and, in those instances and in consultation with
285 the governing boards, promulgate the joint rule;

286 (61) Promulgate a joint rule with the commission establishing tuition and fee policy for all

287 institutions of higher education. The rule shall include, but is not limited to, the following:

288 (A) Comparisons with peer institutions;

289 (B) Differences among institutional missions;

290 (C) Strategies for promoting student access;

291 (D) Consideration of charges to out-of-state students; and

292 (E) Any other policies the commission and council consider appropriate;

293 (62) In cooperation with the West Virginia Division of Highways, study a method for
294 increasing the signage signifying community and technical college locations along the state
295 interstate highways, and report to the Legislative Oversight Commission on Education
296 Accountability regarding any recommendations and required costs; and

297 (63) Implement a policy jointly with the commission whereby any course credit earned at a
298 community and technical college transfers for program credit at any other state institution of higher
299 education and is not limited to fulfilling a general education requirement.

300 (d) In addition to the powers and duties listed in subsections (a), (b) and (c) of this section,
301 the council has the following general powers and duties related to its role in developing,
302 articulating and overseeing the implementation of the public policy agenda for community and
303 technical colleges:

304 (1) Planning and policy leadership including a distinct and visible role in setting the state's
305 policy agenda for the delivery of community and technical college education and in serving as an
306 agent of change;

307 (2) Policy analysis and research focused on issues affecting the community and technical
308 college network as a whole or a geographical region thereof;

309 (3) Development and implementation of each community and technical college mission
310 definition including use of incentive and performance funds to influence institutional behavior in
311 ways that are consistent with achieving established state goals, objectives, and priorities;

312 (4) Academic program review and approval for the institutions under its jurisdiction,

313 including the use of institutional missions as a template to judge the appropriateness of both new
314 and existing programs and the authority to implement needed changes;

315 (5) Development of budget and allocation of resources for institutions delivering
316 community and technical college education, including reviewing and approving institutional
317 operating and capital budgets and distributing incentive and performance-based funding;

318 (6) Acting as the agent to receive and disburse public funds related to community and
319 technical college education when a governmental entity requires designation of a statewide higher
320 education agency for this purpose;

321 (7) Development, establishment and implementation of information, assessment and
322 internal accountability systems, including maintenance of statewide data systems that facilitate
323 long-term planning and accurate measurement of strategic outcomes and performance indicators
324 for community and technical colleges;

325 (8) Jointly with the commission, development, establishment and implementation of
326 policies for licensing and oversight of both public and private degree-granting and nondegree-
327 granting institutions that provide post-secondary education courses or programs;

328 (9) Development, implementation and oversight of statewide and regionwide projects and
329 initiatives related specifically to providing community and technical college education such as
330 those using funds from federal categorical programs or those using incentive and performance-
331 based funding from any source; and

332 (10) Quality assurance that intersects with all other duties of the council particularly in the
333 areas of planning, policy analysis, program review and approval, budgeting and information and
334 accountability systems.

335 (e) The council may withdraw specific powers of a governing board under its jurisdiction for
336 a period not to exceed two years if the council makes a determination that any of the following
337 conditions exist:

338 (1) The governing board has failed for two consecutive years to develop an institutional

339 compact as required in section seven, article one-d of this chapter;

340 (2) The council has received information, substantiated by independent audit, of significant
341 mismanagement or failure to carry out the powers and duties of the board of governors according
342 to state law; or

343 (3) Other circumstances which, in the view of the council, severely limit the capacity of the
344 board of governors to carry out its duties and responsibilities.

345 The period of withdrawal of specific powers may not exceed two years during which time
346 the council is authorized to take steps necessary to reestablish the conditions for restoration of
347 sound, stable and responsible institutional governance.

348 (f) In addition to the powers and duties provided for in subsections (a), (b), (c) and (d) of this
349 section and any others assigned to it by law, the council has those powers and duties necessary or
350 expedient to accomplish the purposes of this article; and

351 (g) When the council and commission, each, is required to consent, cooperate, collaborate
352 or provide input into the actions of the other the following conditions apply:

353 (1) The body acting first shall convey its decision in the matter to the other body with a
354 request for concurrence in the action;

355 (2) The commission or the council, as the receiving body, shall place the proposal on its
356 agenda and shall take final action within 60 days of the date when the request for concurrence is
357 received; and

358 (3) If the receiving body fails to take final action within 60 days, the original proposal stands
359 and is binding on both the commission and the council.

360 (h) On or after July 1, 2024, nothing in this section provides the authority to restrict or
361 regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid
362 license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this
363 code.

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-5b. Concealed carry on higher education campuses; exceptions.

1 (a) A person who holds a current and valid license to carry a concealed deadly weapon is
2 permitted to carry a concealed pistol or revolver on the campus and in the buildings of a state
3 institution of higher education. This subsection only applies to areas of the campus and buildings
4 of a state institution of higher education under the custodial possession of the state institution of
5 higher education and does not include areas rented, leased, or under an exclusive agreement for
6 the full-time occupancy and use of a private entity.

7 (b) The provisions of subsection (a) of this section does not limit the authority of a state
8 institution of higher education to regulate possession of concealed pistols or revolvers by a person
9 who holds a current and valid license to carry a concealed deadly weapon in the following
10 locations consistent with §61-7-14 of this code:

11 (1) At an organized event taking place at a stadium or arena with a capacity of more than
12 1,000 spectators;

13 (2) At a daycare facility located on the property of the state institution of higher education;

14 (3) In the secure area of any building used by a law-enforcement agency on the property of
15 the state institution for higher education;

16 (4) In an area of the property of the state institution of higher education that has adequate
17 security measures in place to ensure that pistols or revolvers are not carried by the public into the
18 area. "Adequate security measures" means the use of electronic equipment and armed personnel
19 at public entrances to detect and restrict the carrying of any pistols or revolvers into the area,
20 including, but not limited to, metal detectors, metal detector wands or any other equipment used
21 for similar purposes to ensure that pistols or revolvers are not carried in those areas by members
22 of the public;

23 (5) At the specific location of a formal disciplinary or grievance hearing for a student or an
24 employee of a state institution of higher education taking place on the campus and in the buildings
25 of the state institution of higher education;

26 (6) In sole occupancy offices on the campus and in the buildings of the state institution of
27 higher education. "Sole occupancy office" means a room with at least one door and walls that
28 extend to the ceiling that is assigned to a single person as his or her workspace. This subdivision
29 does not provide authority to a state institution of higher education to prohibit, regulate, or restrict
30 faculty or staff who holds a current and valid license to carry a concealed deadly weapon from
31 carrying a concealed pistol or revolver in their assigned office;

32 (7) At a primary or secondary education school-sponsored function that is taking place in a
33 specific area on the property of the state institution of higher education that is rented, leased, or
34 under the exclusive use of the West Virginia Department of Education, the West Virginia
35 Secondary Schools Activities Commission, a county school board, or local public school for the
36 actual period of time the function is occurring;

37 (8) At a private function that is taking place in a specific area on the property of the state
38 institution of higher education that is rented, leased, or under the exclusive use of an entity that is
39 not affiliated with the state institution of higher education for the actual period of time the function is
40 occurring;

41 (9) In an area on the property of the state institution of higher education where possession
42 of a firearm is prohibited by state or federal law;

43 (10) In specifically designated areas in which patient-care or mental health counseling is
44 being provided;

45 (11) In high hazardous and animal laboratories, defined as laboratories with:

46 (A) Greater than 55 gallons of Class I flammable liquids and/or significant quantities of
47 acids, bases, organics, pyrophorics, peroxides, bio-hazardous materials, extremely toxic
48 materials or pyrophoric or toxic gases classified NFPA 704 Category 3 or higher;

49 (B) Hazardous gases with K-size or larger cylinders containing corrosive, reactive,
50 flammable, toxic, and/or oxidizer gases classified NFPA 704 Category 2 or higher;

51 (C) MRI and/or NMR equipment capable of generating significant magnetic fields with field
52 strength of at least five gauss is measured outside the equipment or five gauss line typically at
53 least three feet and as much as 20 feet from equipment;

54 (D) Large cylinders of acetylene; or,

55 (E) Animal research laboratory spaces in locations not accessible to the public or generally
56 accessible to students and staff, or

57 (12) In on-campus residence halls, except common areas such as lounges, dining areas,
58 and study areas.

59 (c) Employees whose employment responsibilities require them to be in an on-campus
60 residence hall and hold a current and valid license to carry a concealed deadly weapon are
61 permitted to carry a concealed revolver or pistol on or about their person while present in on-
62 campus residence halls for business purposes.

63 (d) Institutions of higher education shall provide either: (1) A secure location for the storage
64 of a pistol or revolver in at least one of the institution's on-campus residence halls; or (2) make
65 available an appropriate safe that may be installed in a resident's room in any of the institution's
66 on-campus residence halls. If an institution chooses to make a storage room available to on-
67 campus residents at an on-campus residence hall, the institution shall develop a policy that
68 reserves an appropriate amount of rooms in the on-campus residence hall where the storage room
69 is located for on-campus residents with a current and valid license to carry a concealed deadly
70 weapon and who intend to use such storage. The institution shall make the storage room available
71 during all times during which the on-campus residence hall is open and fully operational for use by
72 its residents. If West Virginia University chooses to provide secure locations instead of making
73 safes available to students, it shall provide a secure location in at least two on-campus residence
74 halls at its Morgantown campus and one at each of its Beckley and Keyser campuses.

75 (e) An institution of higher education may charge a reasonable fee for the use of secure
76 storage or a safe.

77 (f) The provisions of subsection (a) of this section do not limit the authority of a state
78 institution of higher education from taking disciplinary action against a student or employee with a
79 valid license to carry a concealed deadly weapon who is convicted of a violation of §61-7-14 of this
80 code related to carrying a firearm in a location listed in subsection (b) of this section.

81 (g) Notwithstanding any provision of subsection (a) of this section to the contrary, while on
82 the campus or in the buildings of a state institution of higher education, a holder of a license to
83 carry a concealed deadly weapon may not carry a pistol or revolver which is partially or wholly
84 visible and intentionally or knowingly display the firearm in plain view of another person in a way or
85 manner to cause, or threaten, a breach of the peace regardless of whether the firearm is holstered
86 or on or about the license holder's person. A holder of a license to carry a concealed deadly
87 weapon who violates this subsection may be, in addition to any applicable criminal charges,
88 subject to administrative punishment which the state institution of higher education considers
89 appropriate.

90 (h) It is the intent of the Legislature to establish, by this Act, conditions under which
91 persons with a current and valid license to carry a concealed deadly weapon may carry a
92 concealed pistol or revolver at a state institution of higher education at the discretion of the person
93 who holds a current and valid license to carry a concealed deadly weapon. When a person
94 exercises the rights granted by this section, neither the carrying of a concealed pistol or revolver
95 nor any other conduct of such person involving a concealed pistol or revolver shall be construed to
96 be an act of the state institution of higher education nor of the state, and no liability for any such
97 actions of such person shall be imputed to the institution of higher education, unless the state
98 institution of higher education has expressly requested or directed such person to carry a
99 concealed pistol or revolver.

100 (i) For the purposes of this section, a "license to carry a concealed deadly weapon" refers
101 to a current and valid license, lawfully issued by the State of West Virginia pursuant to §61-7-4 or
102 §61-7-4a of this code or a current and valid license or permit recognized under §61-7-6a of this

103 code.

104 (j) This section may be cited as "The Campus Self Defense Act".

105 (k) The provisions of this section apply on or after July 1, 2024.

NOTE: The purpose of this bill is to permit the carrying of a concealed pistol or revolver by a person who holds a current license to carry a concealed deadly weapon; authorizing regulation or restriction on the carrying of concealed pistols or revolvers in certain circumstances or areas of an institution of higher education; eliminating authority of the Higher Education Policy Commission, the Council for Community and Technical College Education and the institutional boards of governors to restrict or regulate the carrying of concealed pistols or revolvers in certain circumstances or areas of an institution of higher education.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.